

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

GARRY ZIKA,

Plaintiff,

vs.

CHRISTOPHER CALVERT, and  
MATTHEW HOLCOMB,

Defendants.

4:23CV3249

ORDER

This matter is before the Court on Defendants’ Motion to Extend Filing Deadline ([Filing No. 20](#)), requesting a 30-day extension of time to file their anticipated qualified immunity motion. Defense counsel avers he has been out of the state and has been working on other necessary projects, which has delayed his preparation of a motion in this case. ([Filing No. 20 at p. 3](#)).

Plaintiff strenuously objects to the request because as he sees it, “the July 15, 2024, deadline for the defendants to file a motion for summary judgment on the ground of qualified immunity is not the *true* deadline for filing such a motion, it is simply the deadline to file such a motion *while case progression and discovery is stayed*[.]” ([Filing No. 21 at p. 3](#)) (emphasis in original). Plaintiff objects that extending the July 15, 2024, deadline would “necessarily be prolonging the deadline to file the Rule 26(f) report and would necessarily be prolonging the stay of case progression and discovery,” which Plaintiff finds particularly objectionable given that Defendants were already provided a 30-day extension to file a responsive pleading to the Complaint.

The Supreme Court “repeatedly ha[s] stressed the importance of resolving immunity questions at the earliest possible stage in litigation.” *Pearson v. Callahan*, 555 U.S. 223, 232 (2009) (quoting *Hunter v. Bryant*, 502 U.S. 224, 227 (1991) (per curiam). This is because “qualified immunity is an immunity from suit rather than a mere defense to liability.” *Id.* at 237 (quoting *Mitchell v. Forsyth*, 472 U.S. 511, 526 (1985)). After review, and under the circumstances, the Court finds good cause to extend the defendants’ deadline to file a motion for qualified immunity by 30-days. Accordingly,

**IT IS ORDERED:**

- 1) Defendants' Motion to Extend Filing Deadline ([Filing No. 20](#)) is granted.
- 2) The deadline for filing the anticipated qualified immunity motion is extended to **August 16, 2024**. Further case progression and discovery will be deferred until further order of the court.
- 3) The status conference is rescheduled before the undersigned magistrate judge on **September 4, 2024, at 10:30 a.m.** by telephone. Counsel shall use the conferencing instructions assigned to this case to participate in the conference. The Court will address what, if any, discovery Plaintiff believes is necessary to respond to Defendants' motion for qualified immunity during this status conference.
- 4) The deadline for the parties to file a Rule 26(f) Report remains stayed until further order of the court.

Dated this 11<sup>th</sup> day of July, 2024.

BY THE COURT:

s/Michael D. Nelson  
United States Magistrate Judge